



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,007	06/04/2002	Gopichandra Surnilla	202-0401	7207

36865 7590 11/15/2005

ALLEMAN HALL MCCOY RUSSELL & TUTTLE, LLP
806 S.W. BROADWAY, SUITE 600
PORTLAND, OR 97205

EXAMINER

TRAN, BINH Q

ART UNIT	PAPER NUMBER
----------	--------------

3748

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,007

Applicant(s)

SURNILLA, GOPICHANDRA

Examiner

BINH Q. TRAN

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This office action is in response to the amendment filed August 29, 2005.

Double Patenting

Claims 1, 3, 6-8, and 10-16 are rejected under the judicially created doctrine of double patenting over claims 1-7 of U. S. Patent No. 6,868,667 B2 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: *the application claims are merely broader than the patent claims.*

Claims 1, 3, 6-8, and 10-16 are rejected under the judicially created doctrine of double patenting over claims 10-16 of U. S. Patent No. 6,769,398 B2 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: *the application claims are merely broader than the patent claims.*

Claims 1, 3, 6-8, and 10-16 are rejected under the judicially created doctrine of double patenting over claims 1-13 of U. S. Patent No. 6,745,747 B2 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

Art Unit: 3748

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: *the application claims are merely broader than the patent claims.*

Claims 2 and 9 are rejected under the judicially created doctrine of double patenting over claims 1-8 of U. S. Patent No. 6,735,938 B2 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: *the application claims are merely broader than the patent claims.*

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-8, and 10-16 are rejected under 35 U.S.C. 102 (b) as being anticipated by Ma (Patent Number 6,023,929).

Regarding claims 1 and 10, Ma discloses a method for operating an engine having a first and second group of cylinders (Bank 1, and Bank2), comprising: operating in a first mode wherein the first cylinder group operates with air and substantially no injected fuel and the second cylinder group operates by combusting air and injected fuel at a lean air-fuel ratio (**e.g. See col. 6, lines 3-21**); providing an indication of the device temperature (See col. 5, lines 4-16); in response to said indication, disabling said first mode of operation and operating the engine in a second mode of operation (e.g. See col. 4, lines 1-67; col. 5, lines 1-16).

Regarding claims 3, 11, and 13, Ma further discloses that the second mode of operation includes injecting and combusting fuel in said first group (e.g. See col. 4, lines 1-67; col. 5, lines 1-16).

Regarding claim 4, Ma further discloses that during said first mode, said second cylinder group combusts a lean air-fuel mixture (e.g. See col. 6, lines 3-21).

Regarding claim 5, 12, Ma further discloses that during said first mode, said second cylinder group combusts a stoichiometric air-fuel mixture (e.g. See col. 4, lines 1-67; col. 5, lines 1-16).

Regarding claims 6 and 14, Ma further discloses that the second mode of operation includes injecting and combusting fuel in said first group at a near stoichiometric air-fuel ratio (e.g. See col. 4, lines 1-67; col. 5, lines 1-16).

Regarding claim 7, Ma further discloses that the second mode of operation includes injecting fuel in said first group (e.g. See col. 4, lines 1-67; col. 5, lines 1-16).

Regarding claim 8, Ma further discloses that the second mode of operation includes operating said second group of cylinders rich of stoichiometry, and wherein gasses from said first and second cylinder group mix (e.g. See col. 4, lines 1-67; col. 5, lines 1-16).

Regarding claims 15-16, Ma further discloses that the engine further comprises a throttle and during said first mode said air for said first and second group of cylinders passes through said throttle.

Response to Arguments

Applicant's arguments filed August 22, 2005 have been fully considered but they are not completely persuasive. Claims 1, and 3-16 are pending.

Applicant's cooperation in explaining the claims subject matter more specific to overcome the claim rejection is appreciated.

Art Unit: 3748

Applicants' s arguments with respect to claims 1, and 3-16 have been considered but are moot in view of the new ground(s) of rejection as discussed above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BT
November 10, 2005

Binh Q. Tran
Patent Examiner
Art Unit 3748